



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,538	01/27/2004	Kazunari Oyama	02910.000110.	9614
5514 7590 12/27/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER CHANG, KENT WU	
			ART UNIT 2629	PAPER NUMBER
			MAIL DATE 12/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Response to Rule 312 Communication</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/764,538	OYAMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kent Chang	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☒ The amendment filed on 05 December 2007 under 37 CFR 1.312 has been considered, and has been:

a) ☐ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.

Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☒ disapproved. See explanation below.

e) ☐ entered in part. See explanation below.

*the scope of the claims was changed in the proposed amendment, therefore, further consideration is required.*

*Kent Chang*  
 Kent Chang  
 Primary Examiner  
 Art Unit: 2629

## SECTION I – PERFORMANCE PLAN, PROGRESS REVIEW AND APPRAISAL RECORD

Name:

Date

Sheet No. 2 of 2

**Item 3. Criteria for Evaluation** (Use the generic performance standards printed in Appendix A. Supplemental performance standards may also be specified below.)

- (1) Maximum error rate for an Outstanding rating will be up to 3.49%.
- (2) Error rate for a Commendable rating will be 3.5 - 4.49%.
- (3) Error rate for a Fully Successful rating will be 4.5 - 5.49%.
- (4) Error rate for a Marginal rating will be 5.5 - 7%.
- (5) An error rate of greater than 7% will result in an Unacceptable rating.

To receive a Commendable rating in action taking, an examiner must demonstrate in his or her work the presence of two of the indicia of outstanding action taking (below). To receive an Outstanding rating in action taking, an examiner must demonstrate in his or her work the presence of all of the indicia of outstanding action taking (below).

## Indicia of Outstanding Action Taking

- 1) The examiner's statements of rejection, objection, and response to arguments clearly and concisely present the positions taken or recommended in the resulting Office actions including a thorough substantive explanation to convey those positions to the applicant.
- 2) The examiner's Office action usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the examiner relies to support his or her position.
- 3) The Office actions as well as the file record clearly indicate that the examiner fully complies with the principles of compact prosecution. Note the principle of compact prosecution comprises conducting an initial search which is as complete as possible including consultation with an expert in the art where the examiner lacks such expertise; placing art of record which meets both the concept and the wording of the claims as well as other art which is pertinent to significant though unclaimed features of the disclosed invention; and issuing a first Office action which clearly explains the examiner's position on each essential issue in such detail that absent some unexpected consideration the next Office action may be made final.

Optional Initial Block

Emp.

Date

Supv.

Date